

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4757 OF 2007.

Trimbak Shankar Patil. ... Petitioner.
Versus.
State of Maharashtra & others. ... Respondents.

Shri Rahul Kate holding for Shri R.D.Suryawanshi for the
Petitioner.

Ms.Mhaispurkar, A.G.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 22nd June, 2007.

P.C.:

1. Not on board. Taken on board.

2. Rule. The learned A.G.P. waives service for
the Respondents. Taken up for hearing forthwith.

3. The Petitioner has preferred an Appeal under
section 47 of the Maharashtra Regional and Town Planning
Act, 1966. By an order dated 12th March 2007, the said
Appeal has been dismissed on the ground that it was
barred by limitation. The learned Advocate for the
Petitioner states that the order was passed without
notice to the Petitioner. He, however, states that the
Petitioner is ready and willing to take out a separate
application for condonation of delay and the Appellate
authority be directed to consider the said application.

4. If the Appellate Authority was of the view that

there was delay in preferring the Appeal, the Appellate Authority should have granted a reasonable time to the Petitioner to file an Application for condonation of delay. However, that was not done.

5. Hence the Writ Petition is disposed of by the following order:

- (i) The impugned order dated 12th March 2007 is quashed and set aside and the Appeal is restored.
- (ii) It will be open for the Petitioner to file an application for condonation of delay within a period of four weeks from today. If such an application is taken out, the Appellate Authority will pass appropriate order on the said Application in accordance with law after giving an opportunity of being heard to the Petitioner. If the Application for condonation of delay is not filed within the stipulated time of four weeks, the order dated 12th March 2007 will stand.
- (iii) Writ petition is partly allowed in the above terms with no order as to costs.

Judge .